

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

2015 MAY -8 PM 2: 37

AMHERST TOWN CLERK

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2015-00026, to reconfigure three existing dwelling units through the demolition and reconstruction of an existing barn and interior changes to the existing dwelling, as an owner occupied Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, at 69 Pelham Road (Map 15A, Parcel 107, R-N Zoning District), subject to the following conditions:

1. One of the units shall be and remain owner occupied. In the event that the property changes ownership, but remains owner occupied, a revised Management Plan shall be submitted to the Zoning Board of Appeals for review and approval at a public meeting.
2. The interior and exterior of the entire Converted Dwelling shall be built and used substantially in accordance with the following plans (including all relevant notes and changes) prepared by Kraus Fitch Architects:
 - a. First Floor Plan (sheet A.1), last revised on March 31, 2015
 - b. Second Floor Plan (sheet A.2), dated March 17, 2015
 - c. South and North Elevations (sheet A-2.1), dated March 17, 2015
 - d. North and West Elevations (sheet A-2.2), last revised on March 31, 2015
 - e. Sections (sheet A-3.1), dated March 17, 2015
3. Prior to the issuance of a Certificate of Occupancy, all of the exterior site improvements shown on the site plan, prepared by Lewis & Cook Surveyors, dated February 12, 2015 and last revised on February 20, 2015, shall be completed including but not limited to:
 - a. Installation of the parking area screening as listed;
 - b. Installation of all parking spaces, 6 x 6 timber delineation, and 12 inch compacted driveway and parking area surfaces.
 - c. Removal of the existing loop driveway and existing concrete pad in the wetland area as required by the Amherst Conservation Commission.
4. Prior to the issuance of a Certificate of Occupancy, all of the energy efficiency improvements, with the exception of item number eight related to mechanicals, shall be implemented substantially in accordance with the recommendations of the report prepared by Michael Duclos, dated March 27, 2015. Completion of said improvements shall be field verified by Inspection Services prior to or during construction.
5. An approved Management Plan shall be in place at all times for this property. For the current owner, the Management Plan shall be as approved by the Board on April 2, 2015.
6. Any substantial changes to the approved site plan to development the adjacent parcel shall be submitted to the Zoning Board of Appeals for review and approval at a public meeting.
7. All exterior lighting shall be designed or arranged to be downcast.

Eric Beal

Eric Beal, Chair
Amherst Zoning Board of Appeals

May 8, 2015
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Howard Ewert, PO Box 654, South Hadley, MA 01075
Owner: Norma Filios, 26 Greenleaves Drive, Amherst, MA 01002

Date application filed with the Town Clerk: February 4, 2015

Nature of request: For a Special Permit to reconfigure three existing dwelling units through the demolition and reconstruction of an existing barn and interior changes to the existing dwelling, as an owner occupied Converted Dwelling, under Section 3.3241 of the Zoning Bylaw

Address: 69 Pelham Road (Map 15A, Parcel 107, R-N Zoning District)

Legal notice: Published on March 4, 2015 and March 11, 2015 in the Daily Hampshire Gazette and sent to abutters on March 4, 2015

Board members: Eric Beal, Tom Ehrgood, Mark Parent

Staff members: Jeff Bagg, Senior Planner, Rob Morra, Building Commissioner

Submissions:

- Application form filed with the Town Clerk on February 4, 2015
- Existing Conditions plan, prepared by Lewis and Cook Surveyors, dated February 12, 2015
- Survey/Proposed Site Plan, prepared by Lewis and Cook Surveyors, dated February 12, 2015
- Architectural Plans, including existing and proposed floor plans and elevations, prepared by Kraus Fitch Architects, dated December 22, 2015
- Management Plan
- Lease Agreement
- Planning Board Report to Town Meeting, Article 14, November 2012

Site Visit: March 18, 2015

Eric Beal, Tom Ehrgood, and Mark Parent observed the location of the property on the south side of Pelham Road, and the following:

- The exterior of the building in semi disrepair and chipping paint.
- The exterior of the property containing largely overgrown and unpruned shrubs, trees, and lawn.
- The interior and exterior of the attached barn in poor condition
- The interior of the dwelling containing three unorganized and informally separated units. Several of the interior hazards noted in the submitted information were noted, including but not limited to a stepped-down area in the kitchen and the second floor bedroom and bathroom separated by stairs without a landing.

Public Hearing: March 19, 2015

The following new information was submitted prior to or at the public hearing:

- Applicant Project Summary, dated February 25, 2015
- Letter from Kraus Fitch Architect, dated March 17, 2015
- Revised Architectural Plans, including existing and proposed floor plans and elevations, prepared by Kraus Fitch Architects, dated March 17, 2015
- Photograph collage, dated December 23, 2014
- Project Application Report, dated March 18, 2015
- ZBA FY1999-0039, authorizing three units.

The applicant, Howard Ewert, was accompanied by his architect, Mary Kraus. Ms. Kraus summarized the proposal generally as follows:

- Howard and Barbara Ewert have a purchase and sale agreement to buy the property contingent upon getting approval from the Town.
- The project seeks to maintain three existing units but to reconfigure the units. Specifically, the existing house would be changed from three units to two units and the existing barn would be demolished and reconstructed to contain the third unit.
- The Historical Commission reviewed and approved the plan to demolish the existing barn and its reconstruction.
- Various site improvements are also proposed, including removal of a portion of the existing loop driveway and creating parking spaces for the three units. The Conservation Commission has approved the proposed site changes.
- The land will be subdivided to create a separate building lot to the east. The remaining lot on which the three unit dwelling will be located contains the required lot area for three units.

Ms. Kraus reviewed the existing and proposed floor plans and summarized the changes as follows:

- The existing building contains three unorganized dwelling units. The existing floor plans are color coded and show that the current layout. The existing configuration has many elements that do not meet certain Building Code requirements:
 - Unit A utilizes the same entry as Unit B
 - Unit C has a non-compliant and very steep stair
 - Unit C has a hazardous 9 inch step between the kitchen and dining space
 - Unit B has a room used as a bedroom without the requisite egress window
 - Unit C has non-compliant headroom.
- The proposed floor plans will reconfigure the existing dwelling from three units to two units. The third unit will be constructed entirely within the reconstructed barn area. The proposed plans will allow for better stacking and fire separation of units one and two and will incorporate a residential fire suppression system in both the existing building and new construction.

Ms. Kraus stated the proposal intends to mimic the “big-house-little-house-back house-barn” massing and retain the existing character of the dwelling and barn.

The proposal includes the following changes to the main house:

- Construction of a new dormer and egress windows, construction of a bike shed and trash and recycling shed, and new architectural asphalt shingles on the east elevation
- The existing siding and trim will be scraped and painted white, with shutters repainted red. The existing portion of the house oriented east/west will retain the existing slate roof.

- The west elevation will include the installation of a new first floor egress door, new window and new second floor dormer and egress windows.

The proposal includes the following changes to the barn:

- The existing attached barn structure will be demolished. The foundation will be replaced and the new structure will be constructed essentially on the same footprint.
- The barn will be constructed with a full two stories and will be sided with barn board painted red to match the existing structure.
- As much as possible, existing siding will be salvaged and reused.
- The new structure will have white trim and double hung windows and includes a French-style door on the west side and standard door on the south elevation.

The proposal includes the following changes to the site:

- Beginning at the existing driveway curb-cut, a new driveway will be constructed. Ultimately, the driveway may be a common driveway for this lot and the adjacent vacant lot being created through the Approval Not Required process.
- The new driveway will require the removal of the existing shrubs which run along the existing driveway. Additionally, two 20 inch maple trees will also be removed.
- Four parking spaces will be constructed along east side of the main house; three spaces will be provided toward the middle of the driveway and along the east side of the house; and two spaces will be provided toward the rear and south side of the reconstructed barn.
- Several shrubs will be planted along the front property line to screen the parking spaces from the road.
- As approved by the Conservation Commission, the existing loop driveway will be removed, regarded and seeded. It was noted that the Conservation Commission requested that the shed for bicycle and trash storage be moved out of the wetland buffer. It will now be located attached to the main house.

The Board discussed the Special Permit issued in 1999. The Board acknowledged that the approval shows that the previous Board members determined that three units were appropriate for the property. Staff noted that the potential discrepancies between what was approved and what was constructed in terms of the internal arrangement and the scope of changes to the property warrant considering this application as a new request rather than a modification.

The Board discussed the 2012 change to the Converted Dwelling section which provided new flexibility by allowing a portion of an existing structure to be demolished and rebuilt – something that was previously prohibited:

Conversion may involve an entire residential structure, except that no more than twenty percent (20%) of the gross square footage of resulting habitable space in any converted dwelling use, whether in one or more buildings, may result from new building footprint as well as demolition and subsequent reconstruction of an existing structure, including structural elements or foundation. An exception shall be that up to forty percent (40%) of gross square footage of resulting habitable space may be permitted, including no more than 20% of new building footprint with the remainder being the result of demolition and reconstruction with salvaged and new building materials, when it is determined by the Special Permit Granting Authority or Permit Granting Board that two (2) or more of the following criteria are met:

- a. The conversion addresses urgent and compelling issues of public safety or health.*
- b. The conversion results in the creation of a minimum of one (1) dwelling unit that is fully handicapped accessible under the provisions of the AAB and ADA.*

- c. The conversion results in the creation of a minimum of one (1) dwelling unit permanently affordable under the provisions of Sections 15.12 or 15.13, and is eligible to be counted on the Commonwealth's 40B Subsidized Housing Inventory (SHI) under the provisions of 760 CMR 50.03 (2) (a) and (b) as amended.*
- d. The conversion is predominantly the result of sustainable construction practices, including but not limited to significant improvements in energy efficiency, retention or reuse of significant amounts of existing structural members and architectural elements, and solar orientation and design.*
- e. If the conversion is proposed for one or more historic buildings which are: 1) on a property listed on, or 2) within an area listed on, or 3) are eligible for listing on the National Register of Historic Places, or 4) have been determined by the Historical Commission to be historically significant under Section 13.4 of this Bylaw, then the proposed conversion of historic portions of the building(s) in question shall conform to the National Park Service standards and guidelines for Rehabilitation of an historic building.*

The Board discussed new language noted that the phrase "gross square footage of resulting habitable space" implies that a project be designed first and that the total resulting habitable space is calculated. It is the total gross square footage of the proposed project that will determine how much can be the result of new footprint and/or demolition and reconstruction. The calculation does not consider whether or not portions of the existing structure, such as a barn, are habitable. Rather, it presumes that the structure exists and meets the definition (10 years or older for a structure or built before 1964 for a detached structure). The calculation of "gross square footage of resulting habitable space" is not footprint; it considers all habitable space on all floors of the total new project, so the starting number will typically be larger than a footprint calculation for any new structure.

The Board noted that if the new structure is one story, then the "extra" 20% could be all new footprint (this is based on the fact that the footprint and gross habitable space of a one story structure will be roughly equal). Or, if the new structure is two stories, the "extra" 20% would limit any new footprint to 10%; because the gross habitable space of the first floor would be 10% and the second floor 10%.

The Board discussed that up to 40% gross square footage of resulting habitable space may be permitted (including no more than 20% being new building footprint) if two of the five listed criteria are met. The Board noted that criteria "a" and "d" are general in nature and not specifically defined.

The Board made the following findings under Section 3.3241:

3.3241 (1) - *An existing residence, a structure attached to an existing residence, or a detached structure, may be converted into a dwelling unit or units provided all other zoning requirements which would apply to converted dwellings are met.* The Board finds that the conversion involves both an existing residence and a structure attached to an existing residence and which meet the definition of a Converted Dwelling under Section 12.08.

3.3241 (2) - *A conversion of a structure shall not exceed the total number of dwelling units allowed on the lot. The total number of dwelling units shall not exceed 4 in the R-N, R-O, and R-LD districts and shall not exceed 6 in the R-VC, R-G, B-G, B-L and B-VC districts. Conversion in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts shall not be permitted.* The Board finds that the property is 33,202 square feet. In the R-N Zoning District, a total of 32,000 square feet (20,000 sq. ft. for the first unit and 6,000 sq. ft. for each additional unit) is required for three units pursuant to Table 3 of the Zoning Bylaw.

3.3241 (3) - *In the B-L, B-VC and B-N districts, the Zoning Board of Appeals shall issue a Special Permit in accordance with the provisions of this section only after finding the subject parcel in the nonresidential district would not be adversely affected by the multiple dwelling use and that the uses permitted in the district would not be noxious to the multiple dwelling use. Not applicable*

3.3241 (4) - *There shall be no significant change in the exterior of the building, except that the Zoning Board of Appeals may authorize modification or alteration of a building if such modification or alteration does not substantially change the building's character or its effect on the neighborhood or on property in the vicinity. Demolition of the existing structure proposed for conversion shall not be permitted.* The Board discussed the interpretation of this section. There was not agreement as to whether the significant changes were prohibited or if such changes could be permitted with a finding that they will not substantially change the buildings character or effect. It was noted that this section appears to conflict with the new language from 2012 which allows demolition and reconstruction and/or new additions. The Board requested some additional information from staff as to how this has been interpreted in other applications for Converted Dwelling.

3.3241 (5) - *Except as hereinafter provided, no converted dwelling use shall involve the demolition and removal of an existing structure proposed for conversion shall not be permitted. Conversion may involve an entire residential structure, except that no more than twenty percent (20%) of the gross square footage of resulting habitable space in any converted dwelling use, whether in one or more buildings, may result from new building footprint as well as demolition and subsequent reconstruction of an existing structure, including structural elements or foundation. An exception shall be that up to forty percent (40%) of gross square footage of resulting habitable space may be permitted, including no more than 20% of new building footprint with the remainder being the result of demolition and reconstruction with salvaged and new building materials, when it is determined by the Special Permit Granting Authority or Permit Granting Board that two (2) or more of the following criteria are met:*

The Board finds that the application is seeking to increase the total resulting habitable space by 40% and new footprint by 20% and thus two of the five criteria must be met. The Board finds that the following calculations are under consideration:

- The gross square footage of resulting habitable space for this project is (the plans states "total finished habitable area") = 5,183 square feet.
 - 20% footprint = 1,036 sq. ft.
 - 40% habitable space = 2,073 sq. ft.
- The total habitable space resulting from new construction is 1,816 square feet (35.1%), is less than the 40% limit.
- Of that 40%, the new footprint as a result of the barn demolition and reconstruction is 908 square feet (17.5%), which is less than the 20% limit.

The Board reviewed the applicant's information in terms of criteria "a", which states that *"the conversion addresses urgent and compelling issues of public safety or health"*. The Board finds that the following aspects of the proposal address this criteria:

- Removal of a 9 inch step in kitchen
- Removal of an existing steep staircase and unsafe landing/access from bathroom to bedroom
- Improve and create properly separated egresses for units A and B
- Re-arrange and stack two units to create better fire separation

- Conversion of an existing storage room to legal bedroom, including installation of egress windows
- Installation of a residential type sprinkler system in all units
- Demolition and reconstruction of the existing barn in poor and unsafe condition

The Board reviewed the applicant's information in terms of criteria "d", which states *"the conversion is predominantly the result of sustainable construction practices, including but not limited to significant improvements in energy efficiency, retention or reuse of significant amounts of existing structural members and architectural elements, and solar orientation and design"*.

The Board reviewed the letter, dated March 17, 2015 prepared by Kraus Fitch Architects and the undated letter from Michael Duclos of DEAP Energy Group. The Board noted that the barn would be constructed with insulations and methods required under the current Stretch Building Code and that some of the materials from the barn would be salvaged if possible and incorporated into the new structure.

The Board discussed whether any energy efficiency measures would be implemented for the existing residence. After discussion, the Board determined that in order for the Board to determine that this criteria is met, additional information and improvements to existing residence should be proposed. The Board found that this project involves the interior conversion of the main house and construction of a new unit where the barn is. While the barn will achieve energy efficiency standards because it is new construction, the benefit of this project would be to enhance the energy efficiency of the main house. The Board noted that the information needs to be quantitative in nature and show that the project as a whole will have a "significant improvement". Mr. Morra discussed with the Board the available performance testing of the existing structure and the ability to compare that to increase in efficiency after construction and/or certain mitigation measures are implemented. He noted that this is often done projected data on measures to increase the energy efficiency of the existing structure.

The Board finds that the use of salvaged materials is interesting, it can't be the basis for approval under this section since no inventory or review of how much of the structure is salvageable has been provided.

The Board requested that the applicant seek additional information from the energy consultant on what improvements to the existing residence could be included in the project. Items such as identifying and correcting areas of air leakage using a blower door test, reviewing the HVAC system, evaluating or updating areas where additional insulation could be added, etc. If it can be shown that "significant improvements" to the energy efficiency of the main house could be incorporated, the criteria may be able to be met.

The Board made the following findings under Section 3.3241:

3.3241 (6) -The proposed conversion shall be suitably located in the neighborhood in which it is proposed, as deemed appropriate by the Special Permit Granting Authority. The conversion, if in a residential district, shall either: a) be located in an area that is close to heavily traveled streets, close to business, commercial and educational districts, or already developed for multi-family use, and shall require owner occupancy or a Resident Manager (see definition) in one of the units; or b) be from one to two units, one of which shall be and shall remain owner-occupied, which shall be made a condition of any Special Permit issued in such an instance. The Board finds that the proposal is located on a heavily travelled streets and developed for multifamily use.

The Board noted that while it is maintaining and reconfiguring three units, one of the units will be owner occupied which increases it's computability in the neighborhood.

3.3241 (7) -*The dwelling units shall be connected to the public sewer. However, the Zoning Board of Appeals may authorize, with the approval of the Board of Health, the conversion of a structure to allow an increase from one dwelling unit to two dwelling units on a lot serviced by a septic system.* The Board finds that the property is connected to Town sewer.

3.3241 (9) -*No detached structure shall be converted under the provisions of Section 3.3241 unless it abides by the provisions of Condition 5. above and upon completion provides at least 350 square feet of habitable space.* The Board finds that the proposed unit sizes are greater than the minimum of 350 square feet.

3.3241 (10) -*A management plan as defined in the Rules and Regulations adopted by the Zoning Board of Appeals, shall be included as an integral part of any application.* The Board finds that the submitted Management Plan sufficiently addresses issues related to trash, snow removal, and other information to provide for two rented units and an owner occupied unit.

3.3241 (11) -*A landscape plan appropriate for the project shall be included in the application.* The Board finds that the plan provides some landscaping adjacent to the street to screen parking, and that provided the property will be owner occupied, no additional landscaping plan is required.

3.3241 (12) -*Converted dwellings in the R-O and the R-LD districts shall provide a minimum of 2,000 sq. ft. of usable open space per dwelling unit for the use of occupants. Converted dwellings in the R-N district shall provide a minimum of 1,000 sq. ft. of usable open space per dwelling unit.* The Board finds that 3,000 square feet of useable open space is required and that the side and rear of the property are useable and meet this requirement.

The following members of the public spoke regarding the application:

- Fred Luddy, 36 Pelham Road, stated that he owns 10 acres near the subject property. He said that he thinks the project is admirable as it will preserve the historic character of the main house and updating it with a new unit where the barn is. He expressed concern with the potential for the property to become all rental units and would encourage the Board to require that it be owner occupied now and in the future.

Mr. Beal MOVED to continue the hearing to April 2, 2015. Mr. Ehrgood SECONDED the motion and the Board VOTED unanimously to continue the hearing.

Public Hearing: April 2, 2015

The following new information was submitted prior to or at the public hearing:

- Existing Conditions Investigation and Recommendations, prepared by Michael Duclos, dated March 27, 2015
- Letter from Kraus Fitch Architect, dated March 31, 2015
- Revised First Floor Plan (sheet A.1), and West Elevations (sheet A-2.2) dated March 31, 2015 showing a relocated door and window.

The applicant, Howard Ewert, was accompanied by his architect, Mary Kraus. Ms. Kraus reviewed in detail the report. The following is a summary:

- The consultant did a comprehensive report on the existing building using various methods to evaluate existing conditions and identify areas of potential improvement.
- It concluded with eight improvements to consider:
 1. Dense pack walls with cellulose from outside.
 2. Crawlspace air sealing.

3. Duct air sealing and insulation.
4. Tune windows.
5. Attic air sealing and insulation.
6. Vapor barrier on crawlspace floor.
7. Insulation floor joist cavities above crawlspace.
8. Mechanical changes.

Ms. Kraus explained that the owner is willing and able to implement, to the extent feasible, all of the listed improvements except for item number eight, which calls for replacement of the existing oil burner with a natural gas burner. She discussed the expense and challenges associated with replacing the oil boiler with a natural gas boiler and replacement of three water tanks with one.

The Board made the following finding under Section 3.3241 (5) (d):

3.3241 (5) (d) - The conversion is predominantly the result of sustainable construction practices, including but not limited to significant improvements in energy efficiency, retention or reuse of significant amounts of existing structural members and architectural elements, and solar orientation and design. The Board finds that in addition to the energy efficiency measures to be implemented in the new construction, the implementation of seven of the eight recommendations identified in the report (with the exception of the upgrade to the mechanicals), satisfy this criteria and be a substantial upgrade of the efficiency of the main house. The Board identified that the improvements and the extent to which they can reasonably implemented would be determined in the field by Inspection Services during the permitting process.

The Board made the following finding under Section 3.3241 (4):

3.3241 (4) - There shall be no significant change in the exterior of the building, except that the Zoning Board of Appeals may authorize modification or alteration of a building if such modification or alteration does not substantially change the building's character or its effect on the neighborhood or on property in the vicinity. Demolition of the existing structure proposed for conversion shall not be permitted. The Board finds that the proposed changes are not significant and to not substantially change the buildings character or effect on the neighborhood.

The Board discussed the common driveway requirements. It was noted that the Fire Department did not require any turnaround at the end of the driveway based on the fact that the structure can be accessed from Pelham Road and due to the residential sprinkler system being installed in all three units. The Board determined that if the adjacent lot is developed, the driveway will have either been designed and constructed pursuant to the approved site plan and will meet the common driveway requirements or will have to be upgraded and any significant changes reviewed by the Zoning Board of Appeals. The agreement required under Section 7.720 of the Zoning Bylaw is subject to submission to the Building Commissioner prior to the issuance of a building permit for the adjacent lot.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District. The proposal provides for the reconfiguration of three existing units.

The Board finds that the proposal includes the renovation of the two units in the main house and a new unit in the new construction. Three units have existed on this property since 1999 and the neighborhood contains other multi dwelling properties, single family rental properties, and owner occupied properties. The Board finds the maintaining owner occupancy allows the Board to be compatible with the existing mix of residential uses in the area.

10.382, 10.383 & 10.385 - *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.* The permit is conditioned to avoid the creation of nuisances or substantial inconveniences; specifically, the approved Management Plan, the limit on the number of vehicles, and the requirement for downcast lighting.

10.384 and 10.389 - *Adequate and appropriate facilities would be provided for the proper operation of the proposed use; The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water.* The proposal provides the requisite 3,000 square feet of usable open space pursuant to Section 3.3241(12) and adequate parking for the number of bedrooms associated with the rental units.

10.386 - *The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw.* The Board finds that providing a parking space for each bedroom in the rental units is appropriate for the use of this property and the following:

7.0000 - *Two (2) parking spaces for each dwelling unit.* The Board finds that a total of nine parking spaces are provided which exceeds the minimum. Specifically, the plan provides for four parking spaces associated with the four bedroom rental unit, three parking spaces for the three bedroom unit, and two spaces for the owner occupied unit.

7.0001 - *Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101); 7.101- Paving: For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements.* The Board finds that, as shown on the site plan, the driveway and parking area will be constructed with a 12 inch compacted gravel base and two inch top coat of trap rock.

7.104- Dimensions, Marking & Delineation - *Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage. Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas.* The Board finds that each of the three parking areas will be delineated by 6 x6 landscape timbers and each space will be 9 feet by 18 feet.

7.112 -Screening: *parking areas with 5 or more spaces shall provide effective screening of the parking area from adjacent streets or properties. Such screening may be accomplished by: depressions in grade 3 feet or more; a hedge or wall; or any type of appropriate natural or artificial permanent division. Any required screening barrier shall not be less than 3 feet high. Screening shall not be located to obstruct driver visions so as to impair safety at intersections or driveway entrances or exits.*

The Board finds that the site plan provides for a minimum of five evergreen trees, planted four foot on center and of a minimum size of five gallons, will be planted adjacent to Pelham Road to screen the parking area.

10.387 - *The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.* The Board finds that the approved site plan provides for adequate vehicular maneuverability to prevent vehicles from having to back out onto Pelham Road.

10.389 - *The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water.* The Board finds that the Management Plan and approved plans provide for adequate storage of trash and recycling in an enclosure adjacent to the new unit.

10.390 - *The proposal ensures protection from flood hazards as stated in Section 3.228, considering such factors as: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow; storage of chemicals and other hazardous substances.* The Board finds that the approval by the Conservation Commission will ensure that the wetlands on the property are protected and that the project involves removal of an existing driveway and concrete pad currently situated within the wetland buffer.

10.392 - *The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage.* The proposal provides for the installation of several evergreen shrubs to shield the parking area from view from Pelham Road.

10.393 - *The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting, through use of cut-off luminaires, light shields, lowered height of light poles, screening, or similar solutions.* The proposal requires that all exterior lighting be arranged or designed to be downcast.

10.395 - *The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity which have functional or visual relationship thereto.* The Board finds that the design of the renovated existing dwelling and new construction appropriately maintains the character of the property and mimics the "big-house-little-house-backhouse-barn" scale and massing which is common in New England. The Board finds retaining the design elements of the main house and the design of the new construction to reflect the barn structure is an important element to retaining the overall character and effect of the building in the neighborhood.

10.398 - *The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan.* The Board finds that the proposal provides for the most appropriate use of land and is in keeping with the purpose and intent of the Converted Dwelling section of the Zoning Bylaw, including the changes adopted in 2012. The Board finds that the proposal is in keeping with the goals of the Master Plan to "honor the historical/cultural character and beauty of neighborhoods" and to "encourage the production of housing in an environmentally sound manner, with respect to design, siting, materials and resource use".

Zoning Board Decision

Mr. Beal MOVED to approve the application with conditions. Mr. Parent seconded the motion.

ZBA FY2015-00026, to reconfigure three existing dwelling units through the demolition and reconstruction of an existing barn and interior changes to the existing dwelling, as an owner occupied Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, at 69 Pelham Road (Map 15A, Parcel 107, R-N Zoning District), subject to conditions.

Eric Beal
ERIC BEAL

(JB)

Tom Ehrgood
TOM EHRCOOD

(JB)

Mark Parent
MARK PARENT

(JB)

FILED THIS 8th day of May, 2015 at 2:36 p.m.
in the office of the Amherst Town Clerk Sandra J. Bury

TWENTY-DAY APPEAL period expires, May 28, 2015, 2015.

NOTICE OF DECISION mailed this 11th day of May, 2015
to the attached list of addresses by Jeffrey R. Bury, for the Board.

CERTIFICATE OF NO APPEAL issued this _____ day of _____, 2015.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2015,
in the Hampshire County Registry of Deeds.

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Howard Ewert

Address PO Box 654

City or Town South Hadley, MA 01075

Identify Land Affected: 69 Pelham Road
(Map 15A, Parcel 107, R-N Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

69 Pelham Road Amherst
Street City or Town

The record of title standing in the name of

Norma D. Filios

Name of Owner

Whose address is 26 Greenleaves Drive Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the

Hampshire County Registry of Deeds: Book 5505 Page 228

or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2015-00026

In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

Eric Beal

(Board of Appeals)

JD

Chairman

Mark Parent

(Board of Appeals)

JD

Clerk

at _____ o'clock and _____ minutes _____ m.

Received and entered with the Register of Deeds in the County of Hampshire

Book _____ Page _____

ATTEST _____

Register of Deeds

Notice to be recorded by Land Owner

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Howard Ewert

For A Special Permit, ZBA FY2015-00026, to reconfigure three existing dwelling units through the demolition and reconstruction of an existing barn and interior changes to the existing dwelling, as an owner occupied Converted Dwelling, under Section 3.3241 of the Zoning Bylaw

On the premises of 69 Pelham Road
At or on Map 15A, Parcel 107, R-N Zoning District

NOTICE of hearing as follows mailed (date) March 4, 2015
to attached list of addresses and published in the Daily Hampshire Gazette
dated March 4, 2015 and March 11, 2015

Hearing date and place March 19, 2015 & April 2, 2015 (Town Hall)

LEGAL NOTICE The Amherst Zoning Board of Appeals will meet on Thursday, March 19, 2015, at 5:30 P.M. in Lower Level Meeting Room, Bangs Community Center, to conduct the following business: PUBLIC HEARING: ZBA FY2015-00025 - Grace Grifed - For a Special Permit to construct a new detached accessory structure to be used as a Supplemental Detached Dwelling Unit under Section 3.3241 of the Zoning Bylaw, at 15 Boston Street (Map 11C, Parcel 155, R-G Zoning District) ZBA FY2015-00026 - Howard Ewert - For a Special Permit to reconfigure three existing dwelling units through the demolition and reconstruction of an existing barn and interior changes to the existing dwelling, as an owner occupied Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, at 69 Pelham Road (Map 15A, Parcel 107, R-N Zoning District) ZBA FY2015-00027 - Craig and Rachel Gibson - For a Special Permit to convert and existing single family dwelling into two units, with an addition, as an owner occupied Converted Dwelling, under Section 3.3241, and to modify the maximum building coverage limit of 25% under Table 3, Article 2, of the Zoning Bylaw, at 50 Middleman Street (Map 11C, Parcel 189) ERIC BEAL, CHAIR AMHERST ZONING BOARD OF APPEALS March 4, 11 327537

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2015-00026, to reconfigure three existing dwelling units through the demolition and reconstruction of an existing barn and interior changes to the existing dwelling, as an owner occupied Converted Dwelling, under Section 3.3241 of the Zoning Bylaw

Eric Beal - Yes Tom Ehrgood- Yes Mark Parent - Yes

DECISION: APPROVED with conditions

Town of Amherst Abutter List

Parcel ID	Parcel Address	Owner1	Owner2	Address	City/Zip
15A-92	PELHAM RD	THORNTON, HOWARD E. JR	THORNTON, GLORIA	101 PELHAM RD	AMHERST, MA 01002
15A-59	35 PELHAM RD	HESS, MARIE		35 PELHAM RD	AMHERST, MA 01002
15A-40	36 PELHAM RD	LUDDY, FREDERICK L & JUDITH H		36 PELHAM RD	AMHERST, MA 01002
15A-60	41 PELHAM RD	IRELAND, MICHAEL K D & RUTH E		41 PELHAM RD	AMHERST, MA 01002
15A-61	49 PELHAM RD	TREROTOLA, DENNIS	TREROTOLA, CANDACE A.	P.O. BOX 811	AMHERST, MA 01004-0811
15A-62	61 PELHAM RD	FILIOS, PAUL G		1219 HILLSIDE TERR	ALEXANDRIA, VA 22302
15A-85	66 PELHAM RD	COMM PROPERTIES LLC	C/O PIPELINE PROPERTIES INC	6 UNIVERSITY DR SUITE 206-215	AMHERST, MA 01002
15A-107	69 PELHAM RD	FILIOS, NORMA D		26 GREEN LEAVES DR #601	AMHERST, MA 01002
15A-84	72 PELHAM RD	GOLDBERG, EDDY A		72 PELHAM RD	AMHERST, MA 01002
15A-83	88 PELHAM RD	ONESTA PROPERTIES LLC	C/O PIPELINE PROPERTIES INC	6 UNIVERSITY DR SUITE 206-215	AMHERST, MA 01002
15A-70	96 PELHAM RD	MISTERKA, RICHARD W & DEBORAH O		95 PELHAM RD	AMHERST, MA 01002
15A-80	98 PELHAM RD	MMGG PROPERTIES LLC	C/O COMM PROP LLC PIPELINE PROP	6 UNIVERSITY DR SUITE 206-215	AMHERST, MA 01002
15A-64	103 PELHAM RD	THORNTON JR, HOWARD & GLORIA LIFE ESTATE		103 PELHAM RD	Amherst, MA 01002
15B-71	106 PELHAM RD	POLEBITSKI, AUSTIN & HECIMOVIC, KATRINA		545 JEFFERSON ST	PLATTEVILLE, WI 53818

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
15A-67	107 PELHAM RD	COMM PROPERTIES LLC	C/O PIPELINE PROPERTIES INC	6 UNIVERSITY DR SUITE 206-215	AMHERST, MA 01002
15A-68	109 PELHAM RD	COMM PROPERTIES LLC	C/O PIPELINE PROPERTIES PROP INC	6 UNIVERSITY DR STE 206-215	Amherst, MA 01002
15B-19	115 PELHAM RD	DONOGHUE, ANDREW J & MARY		115 PELHAM RD	AMHERST, MA 01002
15B-132	POET'S CORNER	POET'S CORNER DEVELOPMENT LLC	C/O GIBSON, NANCY	P.O. BOX 2381	AMHERST, MA 01004
15B-136	POET'S CORNER	POET'S CORNER DEVELOPMENT LLC	C/O NANCY GIBSON	P.O. BOX 2381	AMHERST, MA 01002
15B-135	1 POET'S CORNER	TERUEL, HONEYLYNE G		69A MILL VILLAGE RD	SOUTH DEERFIELD, MA 01373
15B-134	5 POET'S CORNER	HOSEA, KIKI H & SUHENDRO, ELLY L		5 POET'S CORNER	AMHERST, MA 01002
15B-133	7 POET'S CORNER	CUNIFFE, SHILPA ZAVERI & DENIS J		7 POET'S CORNER	AMHERST, MA 01002
15B-131	9-11 POET'S CORNER	GOLDSTEIN, JOSHUA S & ROSE, ANDRA M		9-11 POET'S CORNER	AMHERST, MA 01002
15B-129	12 POET'S CORNER	RANDALL, MARGARET J		12 POET'S CORNER	AMHERST, MA 01002
15B-130	14-16 POET'S CORNER	GOLDSTEIN, JOSHUA & ROSE, ANDRA		16 POET'S CORNER	AMHERST, MA 01002